IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.PADMANABHAN NAIR

TUESDAY, THE 4TH DECEMBER 2007 / 13TH AGRAHAYANA 1929

FAO.No. 200 of 2003()

AGAINST THE ORDER DATED 16/08/2003 IN IA 1520/03 IN OS.471/2002 of I ADDL.SUB COURT, KOZHIKODE

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APPELLANTS/PETITIONERS/PLAINTIFFS

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1. POYILIL VIJAYAKUMARI
   D/O. LATE DAMODARAN NAIR, AGED 43 YEARS,
   RESIDING AT SREELAKSHMI, OLAVANNA AMSOM,
   DESOM, KOZHIKODE TALUK.

2. POYILIL SREEJA D/O. LATE DAMODARAN NAIR,
   AGED 29 YEARS, ANJANAM, OLAVANNA AMSOM, DESOM,
   KOZHIKODE TALUK.

BY ADV. SRI.C.P.MOHAMMED NIAS

RESPONDENTS: RESPONDENTS/DEFENDANTS

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1. POILIL MADHAVANUNNI
   S/O. LATE DAMODARAN NAIR, AGED 39,
   OVALANNA AMSOM, DESOM.

2. POYILIL SASIDHARAN
   S/O. LATE DAMODARAN NAIR, AGED 37,
   OLAVANNA AMSOM, DESOM.

3. POYILIL ANIL KUMAR,
   S/O. LATE DAMODARAN NAIR, AGED 35,
   OLAVANNA AMSOM, DESOM, KOZHIKODE TALUK.

BY ADV. SRI.P.T.MOHANKUMAR
SMT.ARLISS TRENCY ANTONY

THIS FIRST APPEAL FROM ORDERS HAVING BEEN FINALLY HEARD ON 04/12/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

K.PADMANABHAN NAIR, J.

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F.A.O.No.200 of 2003-C

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Dated this the 4th day of December, 2007

J U D G M E N T

The plaintiffs in O.S.No.471/2002 on the file of the Subordinate Judges Court, Kozhikode, are the appellants. The appeal is filed challenging the order passed by the court below dismissing the application filed under Order 40 Rule 1 of C.P.C for appointment of a receiver to manage the properties scheduled to the plaint. The suit was for partition. There are seven items of properties. The defendants are the brothers of the plaintiffs. The trial court had already passed an order restraining the defendants from committing any kind of waste in the plaint schedule properties. This appeal is filed on 17/11/2003. No interim order was passed by this Court. The trial court has only said that as on date of passing of the impugned order there was no need to appoint a receiver. So, I am of the view that the F.A.O can be disposed of with a direction to the court below to try and dispose of the suit within a time

frame. If, for any reasons the disposal is delayed and any fresh cause of action for appointment of a receiver arises, it is open to the appellants to move the trial court for appointment of receiver, and the impugned order will not be a bar for them to move again.

In the result, the F.A.O is disposed of with a direction to the trial court to try and dispose of the suit, as expeditiously as possible, at any rate, within six months from the date of receipt of a copy of this judgment.

K.PADMANABHAN NAIR,
Judge

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